

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

MARGARET C. GILPIN, )  
vs. )  
Plaintiff, )  
vs. ) Case Number CIV-06-762-C  
JOHN C. POTTER, Postmaster General )  
United States Postal Service, )  
Defendant. )

**MEMORANDUM OPINION**

Defendant filed the present Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1) arguing the Court lacks subject matter jurisdiction over Plaintiff's claim because she failed to establish a waiver of sovereign immunity. Plaintiff has now filed an Amended Complaint asserting that her claims are premised on 42 U.S.C. §§ 2000e-3 and -16. Section 2000e-16 appears to provide an avenue to pursue a claim against Defendant for the allegations of harassment raised by Plaintiff. Likewise, Section 2000e-3 has been held to be applicable to the federal government. See Bd. of County Comm'rs, Fremont County, Colo. v. E.E.O.C., 405 F.3d 840 (10th Cir. 2005). Thus, Plaintiff has now premised her case on statutes which waive Defendant's sovereign immunity. Accordingly, Defendant's motion will be denied.

For the reasons set forth herein, Defendant Postmaster General's Motion to Dismiss (Dkt. No. 12) is DENIED.

IT IS SO ORDERED this 17th day of May, 2007.



ROBIN J. CAUTHRON  
United States District Judge